

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 7/28/08

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ACE AMERICAN INSURANCE COMPANY :  
a/s/o SIDNEY FRIEDMAN, :  
 :  
Plaintiff, :  
 :  
-against- :  
 :  
JEFFSTAR MARINE SERVICES & JEFFSTAR, INC., :  
 :  
Defendants. :  
 :  
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08 Civ. 4315 (BSJ) (AJP)

**ORDER**

**ANDREW J. PECK, United States Magistrate Judge:**

For the reasons stated on the transcript, the Court conditionally will vacate defendant Jeffstar Marine Services default, on condition that by August 8, 2008:

1. Jeffstar Marine pays plaintiff its reasonable attorney fees, not to exceed \$1,500, for its costs involved in moving for the default, filing inquest papers and opposing defendant's motion to vacate the default, and

2. Paying \$52,000 into either (a) the Court's registry or (b) plaintiff's counsel's escrow account, to insure that if plaintiff prevails there will be assets to pay the judgment.

If defendant Jeffstar Marine does not satisfy these conditions, the motion to vacate the default is and will be DENIED, and the Court will schedule an inquest hearing. The Clerk of Court is to close the motion, Dkt. No. 14.


CAOPIN\

**FILING OF OBJECTIONS TO THIS ORDER**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from service of this Order to file written objections. See also Fed. R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Barbara S. Jones, 500 Pearl Street, Room 620, and to my chambers, 500 Pearl Street, Room 1370. Any requests for an extension of time for filing objections must be directed to Judge Jones (with a courtesy copy to my chambers). Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140, 106 S. Ct. 466 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993), cert. denied, 513 U.S. 822, 115 S. Ct. 86 (1994); Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir.), cert. denied, 506 U.S. 1038, 113 S. Ct. 825 (1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); Wesolek v. Canadair Ltd., 838 F.2d 55, 57-59 (2d Cir. 1988); McCarthy v. Manson, 714 F.2d 234, 237-38 (2d Cir. 1983); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(d).

SO ORDERED.

Dated: New York, New York  
July 28, 2008

  
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**Andrew J. Peck**  
United States Magistrate Judge

Copies **by fax & ECF** to: Gregory G. Barnett, Esq.  
Daniel R. Olivieri, Esq.  
Judge Barbara S. Jones